

Board of Judicial Policy and Administration

Minutes

December 6, 2012

The Board of Judicial Policy and Administration met in Cheyenne on December 6, 2012. In attendance in person were Justice Jim Burke, Justice Michael Davis, Judge Tom Campbell, Joann Odendahl, Ronda Munger, Steven Dreher, Carol Thompson, Georgia Tibbetts, and Becky Craig. Those in attendance by video conference were Chief Justice Marilyn Kite, Judge Jeffrey Donnell, Judge Dan Price, Judge Robert Castor, and Judge Curt Haws. Judge Michael Patchen joined the meeting by telephone.

Old Business

Committee Updates

Court Security Commission – Joann Odendahl summarized a report that was prepared by Judge Wes Roberts regarding the Riverton courtroom facility. His report indicated that the conex boxes that the county rents from a local business now surround the entire building, but that other options are being considered by the county commissioners for a long term solution. Chief Justice Kite suggested that a delegation from the Court Security Commission and the Board of Judicial Policy and Administration should possibly meet with the Fremont County Commissioners again. Judge Donnell advised that he entered an order the previous week that requires the Albany County Sheriff to remove anyone from the Albany County Courthouse who possesses a weapon. He stated that he believes that the district courts have the inherent authority to protect themselves.

CTAC – District Court Case Management/E-citations – Steven Dreher reported to the Board on the following projects:

- The District Court case management system (WyUser) is currently active in the district courts in Sheridan, Uinta and Albany counties. The implementation portion of the project is next, which will entail data migration from those courts with non-FullCourt record management systems. The formal schedule for that process will be given to the district judges at their upcoming meeting. A design committee of judicial assistants has been formed to look into expanding the use of the system into the district judges' chambers. Justice Davis has agreed to help this group outline the functions that are needed.
- The electronic citations program is now in pilot in Laramie County, however, things have not yet been finalized with the Highway Patrol since the patrol is still in the training stage. Steven reported that 72% of the cases that were filed with the circuit courts from January 1, 2012 through November 30, 2012 were citations. He believes that between electronic citations and electronic payments, it should dramatically cut down on the clerks' workloads.
- An off-site data center in Casper is now operational. In the event of a natural disaster or an incident at the Supreme Court building that would have an impact on electronic services, the judiciary would remain fully functional from the facility in Casper.

- Work is being done on the jury management system to ensure that the names that come from the Department of Transportation and the Secretary of State's Office for the jury lists do not include those of deceased individuals. Funding will be requested in the next full biennium for implementation of technology that will allow the clerks to track the time from when the juror receives the summons, to when the juror responds to the questionnaire, to the juror's appearance on court day.
- The video appearance network is being recognized as a valuable tool in the circuit courts from the public safety aspect of not needing to transport individuals back and forth from the detention center to the courtroom for hearings. The IT Department is working on other uses for the video appearance network in the circuit courts.

Jt. Judiciary Committee Update

Chief Justice Kite reported that at the last meeting of the Joint Judiciary Committee, the magistrate bill was approved that would allow the Wyoming Supreme Court to determine whether a vacancy in the position of a full-time magistrate will be filled by a full-time magistrate or by a part-time magistrate. Approval was also given to the bill that would change the distribution of Supreme Court decisions and Session Laws to libraries and other offices from being mandatory, to being distributed upon request. Chief Justice Kite noted, however, that the court reporting bill was not successful. Discussion was held on the issue of statutorily mandated transcripts. Judge Campbell requested that before the Board acts on this issue, he be allowed to bring that portion of the proposed bill before the District Court Conference at their December meeting. A conference call meeting will be held by the Board on this matter before the end of the year.

Proposed Amendment to Rule 10 of the Rules Governing the Commission on Judicial Conduct and Ethics

Judge Castor and Judge Donnell informed the Board that the Circuit Court and District Court Judges' Conferences were not in favor of the proposed amendment because of the changes to the confidentiality provisions of the rule. Discussion was held. Judge Price moved and Judge Haws seconded a motion to approve the proposed Amendment to Rule 10 of the Rules Governing the Commission on Judicial Conduct and Ethics. The motion was unanimously opposed.

Closure of Satellite Courts

Chief Justice Kite provided an update on this issue. Discussion was held on the request that was received which proposed that local governments be allowed to pay the costs of operating their satellite courts. After discussing the matter, it was the consensus of the Board that the individual counties should not fund the circuit courts. Chief Justice Kite will prepare a letter summarizing the discussion and will circulate it to the Board for review.

Court Facilitator Program

Chief Justice Kite reviewed the history of the development of a Court Facilitator Program. She explained that this is not an endeavor intended to place non-lawyer individuals into situations where they are practicing law; it is an effort to try to help people who come into the courts on domestic relations cases to be better prepared. She stated that she feels there is considerable misinformation and misconceptions about this program. Discussion was held on this matter, but no action was taken.

Court Reporters

Joann Odendahl informed the Board that the court reporters' vouchers for transcript fees are sent to the Court Administrator's Office for payment. She advised that the internal auditors noticed discrepancies in how the court reporters bill for transcripts in multi-defendant proceedings. Joann explained that in an effort to ensure that all transcript fee vouchers are submitted in the same format to payroll, and to alleviate any misunderstanding of how the transcript fees should be charged to the state, she asked two court reporters to work with her on drafting a new rule and billing form. Joann reviewed the proposed form and the proposed addition to Rule 908 of the Uniform Rules for District Courts with the Board. Discussion was held on the district court practices in this regard. Judge Donnell will collaborate with other district judges to redraft the proposal, and he will circulate it to the Board for review. Chief Justice Kite explained that many court reporters have also expressed concerns about the varied personnel policies and inconsistent employment practices across the state. Judge Campbell offered to bring this issue up for discussion at the District Judges' meeting.

Balancing Circuit Court Caseloads within a District

Chief Justice Kite reminded the Board of the need for the circuit courts to balance or adjust their workloads so as to more evenly distribute the judges' workloads in some counties. Judge Castor explained that the representatives on the Board and the officers of the Circuit Court Conference met to discuss what could be done to implement division of the caseloads in a manner that would aid the public and the efficiency of the judiciary. He stated that he feels that they have made great strides in all those counties concerned, and that the workload has now been divided in a more fair and equitable manner.

New Business

National Summit on Language Access in the Courts

Judge Donnell summarized some of the information that he learned at the National Summit on Language Access in the Courts that took place in October in Houston, Texas, which was held for the primary purpose of addressing various issues concerning limited English proficiency (LEP) participants in the judicial process. He advised that a needs assessment should be performed to ascertain how this project should move forward, and he stressed that this issue needs to be addressed soon. Chief Justice Kite pointed out that the Department of Justice is conducting audits of states based upon complaints it receives, and that it has the ability to cut federal funding if it believes that due process is not being carried out in this regard. She advised that it is imperative that there be a plan in place and an effort made to improve in this area. Judge Donnell offered to head up a committee made up of Joann Odendahl, Diane Bauersfeld, Kristi Racines, one Supreme Court justice, two district judges, two circuit court judges, a representative from the public defender's office, and one prosecutor. Joann explained that it may be necessary to look at having at least one full time statewide court interpreter available, and that video conferencing may need to be more widely utilized. Judge Campbell moved and Justice Davis seconded a motion to establish this committee to examine the issues and to report back to the Board with recommendations. Motion passed unanimously.

Proposed new rule to Circuit Court Rules of Civil Procedure

Judge Patchen reported that a committee of three Circuit Court Judges was directed to look at remedies to problems that have developed due to the increased number of civil filings since the jurisdictional limit was changed from \$7,000 to \$50,000. He explained that the main difficulty is that service of documents on defendants has been taking from 2-4 months or longer. Judge Patchen pointed out that the lengthy service creates a problem in that it starts to crowd the time frame for discovery and filing of motions into the 7 month trial deadline provided for in the Rules of Civil Procedure for Circuit Courts, and also triggers the need to send out 90 day "Warning of Imminent Dismissal" notices for lack of prosecution. He informed the Board that the Committee investigated adjoining states' procedures that allow a plaintiff to serve a defendant prior to the case being filed with the court. The Committee's proposal is to amend Rule 3 of the Rules of Civil Procedure for Circuit Courts to allow for two different ways to file a complaint and serve the defendant. The first method would be for the plaintiff to file the complaint with the court and have the summons issued in the usual manner. The second method would be for the plaintiff to serve the summons and the complaint on the defendant, and then within a 10 day period, the plaintiff would be required to file the complaint, summons, and the proof of service with the court. This would allow the court to know that the case is actually moving forward on the fast track, as opposed to a case that is filed and then languishes. This would result in less time spent on maintenance of open files where service has not been accomplished, and would reduce postage and copy costs because there would be less need to send notices of "Warning of Imminent Dismissal." If the plaintiff does not file the case within the 10 day period, the case would not exist and would be deemed dismissed. The court could, in its discretion, tax a reasonable sum in favor of the defendant as compensation for his/her expenses and inconvenience, including attorney's fees, which would be paid by plaintiff or plaintiff's attorney. Judge Castor informed the Board that the Circuit Court Conference unanimously requested that the Board recommend to the Supreme Court that the amended rule be adopted. Discussion was held. Judge Castor moved and Judge Donnell seconded a motion that the proposed amendment to Rule 3 of the Wyoming Rules of Civil Procedure for Circuit Courts be recommended to the Supreme Court for adoption. The motion carried on a vote of 5 to 2.

Judicial Ethics Advisory Committee (JEAC)

Ronda reported that both John Burman and Catherine MacPherson, whose terms on the JEAC will expire on December 31, 2012, have agreed to be reappointed to the committee for an additional term.

Board of Law Examiners

Chief Justice Kite reported that the Court has agreed to move forward with the Uniform Bar Examination upon the recommendation of the Board of Law Examiners. She explained that Denise Burke, who did her sabbatical study on bar examinations, has been hired as the Executive Director and will implement this change.

Miscellaneous

Ronda pointed out that the September Board meeting has been changed to Tuesday, September 10th due to adjustments in the schedule for the State Bar Meeting. Also, the December meeting has been changed to December 18th. This will allow for a report to be given after the budget has been defended to the Joint Appropriations Committee. This date will also allow for a report from the District Judges' December meeting.

Meeting was adjourned.

Schedule of Future Meetings:

March 6, 2013 (videoconference)

June 5, 2013 (videoconference)

September 10, 2013 (Gillette)

December 18, 2013 (videoconference)

Approved by email on February 14, 2013

The Board of Judicial Policy and Administration's meetings are not open to the public unless the Board, in its discretion, determines that a particular meeting or agenda item should be open to the public. The Board will disclose what is discussed at the meetings at its discretion.